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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/921,713	08/06/2001	Takayuki Usui	Q65607	8286
<div>7590 10/01/2007 SUGHRUE MION ZINN MACPEAK &amp; SEAS, PLLC 2100 Pennsylvania Avenue, NW Washington, DC 20037-3213</div>			<div>EXAMINER MOHANDESI, JILA M</div>	
			<div>ART UNIT 3728</div>	<div>PAPER NUMBER</div>
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 09/921,713  
Filing Date: August 06, 2001  
Appellant(s): USUI ET AL.

**MAILED**

**OCT 01 2007**

**Group 3700**

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Daniel V. Williams  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 07/26/2007 appealing from the Office action mailed 02/01/2007.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

5,270,901	NOWAK et al.	12-1993
3,483,965	ROSENBLATT et al.	12-1969

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

Claims 8, 27, 30, 33 and 35-40 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Nowak et al. (5,720,901) in view of Rosenblatt et al. (3,483,965). Nowak '901 discloses a printing plate packaging box comprising: a box main body (30) which accommodates a bundle of printing plates (10) and which is provided with a supply opening through which the printing plates are taken out; said printing plates being in direct contact with said box main body; an opening/closing lid (31) which is removably attached to said box for opening/closing the supply opening; and a light shielding member (circumferential side plate portions, not numbered, see Figure 2 embodiment) which prevents direct entry of light from outside into the inside of the box main body, provided in the vicinity of a zone in which the box main body and the opening/closing lid are connected to each other in an assembled state, the light-shielding member (circumferential side plate portions) being connected to the opening/closing lid such that the light-shielding member blocks the direct entry of light from outside into the inside of the box through the zone in which the box main body and the opening/closing lid are connected to each other in the assembled state, and said light shielding member being circumferentially larger than said box main body such that said light shielding member surrounds and covers an outermost portion of said box main body.

With respect to claims 35-37, the light shielding member is in sliding contact with an outermost portion of the box main body when the lid is removed from the box main body.

Nowak '901 as described above disclose all the limitations of the claim except for a smooth sheet-type material adhered to the outer surface of said opening/closing lid. Rosenblatt '965 discloses that it is desirable to provide a sheet-type material (heat-shrinkable plastic film 13 which has been shrunk to the point where its edges are flush with the edges of the book cover) of which surface is smooth and air tight (see column 3, lines 3-7) onto outer surface of an opening/closing lid to provide a smooth taut dust cover on the lid. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a sheet-type material of which surface is smooth and air tight to the opening/closing lid of Nowak '901 as taught by Rosenblatt '965 to provide a smooth taut dust cover for the lid.

With respect to claims 38-40, the sheet-type material is parallel with the bundle of photosensitive printing plates.

#### **(10) Response to Argument**

In response to appellant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a

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reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). "A combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results." *KSR Int 'l v. Teleflex Inc.*, 127 S.Ct. 1731, 82 USPQ2d at 1396. "When a work is available in one field of endeavor, design incentives and other market forces can prompt variations of it, either in the same field or a different one. If a person of ordinary skill can implement a predictable variation, § 103 likely bars its patentability." *Id.*

In response to appellant's argument that Rosenblatt '965 is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, both references are in the field of packaging and protecting the content stored therein.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Rosenblatt '965 clearly discloses a heat-shrinkable plastic film 13 which has been shrunk to the point where its edges are flush with the edges of the book cover which will not prevent it from opening and closing.

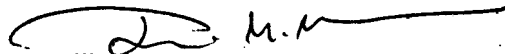
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**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,



Jila M. Mohandesi  
Primary Patent Examiner  
Art Unit 3728

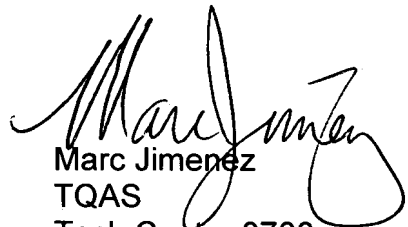
JMM

September 21, 2007

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